

Ravis wnto  
H.L.C. Hensarling  
#11

**AMENDMENT TO H.R. 3121, AS REPORTED  
OFFERED BY MR. HENSARLING OF TEXAS**

Strike section 7 of the bill and insert the following:

1 **SEC. 7. COMMISSION ON NATURAL CATASTROPHE RISK**  
2 **MANAGEMENT AND INSURANCE.**

3 (a) CONGRESSIONAL FINDINGS.—The Congress finds  
4 that—

5 (1) catastrophic hazards, including tornadoes,  
6 earthquakes, volcanoes, landslides, tsunamis, flood-  
7 ing, and hurricanes, directly affect hundreds of mil-  
8 lions of people each year;

9 (2) during the 1990s, 2,800 natural disasters  
10 killed more than 500,000 people and directly af-  
11 fected 1,300,000,000 people worldwide;

12 (3) property damage from natural catastrophes  
13 has dramatically increased in recent decades, rough-  
14 ly doubling every seven years—a 14-fold increase  
15 over the past 40 years;

16 (4) risk costs have particularly soared in coastal  
17 areas, where hurricane frequency and severity has  
18 significantly increased, along with home values and  
19 building costs;

1           (5) increased risk costs are being reflected in  
2 increased catastrophe insurance and reinsurance  
3 costs;

4           (6) an inefficient legal and regulatory environ-  
5 ment in some States has further exacerbated insur-  
6 ance cost increases, including through ineffective  
7 price controls, restrictions on capital movement, sub-  
8 optimal solvency regulation, and duplicative or un-  
9 necessary regulation;

10          (7) consumers further suffer from temporary  
11 rate and availability volatility after major catas-  
12 trophes while the marketplace adjusts to the losses;

13          (8) government catastrophe mitigation require-  
14 ments have been sub-optimal, sometimes ineffective,  
15 and uncoordinated;

16          (9) some State efforts to reduce insurance  
17 prices in catastrophe-prone areas have sometimes re-  
18 duced long-term availability and competitive afford-  
19 ability of coverage, as well as subsidized excessive  
20 development in environmentally sensitive areas at  
21 the expense of taxpayers;

22          (10) several proposals have been introduced in  
23 the Congress to address the affordability of natural  
24 catastrophe insurance, but there is little consensus  
25 on the appropriate role of the Federal Government

1 in facilitating the private insurance marketplace  
2 while avoiding cross-subsidies; and

3 (11) therefore, an efficient and effective ap-  
4 proach to assessing natural catastrophe risk man-  
5 agement and insurance is to establish a nonpartisan  
6 commission to study the management of natural ca-  
7 tastrophe risk, and to require such commission to  
8 report to the Congress on its findings before the  
9 next hurricane season begins.

10 (b) ESTABLISHMENT.—There is established a non-  
11 partisan Commission on Natural Catastrophe Risk Man-  
12 agement and Insurance (in this section referred to as the  
13 “Commission”).

14 (c) MEMBERSHIP.—

15 (1) APPOINTMENT.—The Commission shall be  
16 composed of 16 members, of whom—

17 (A) 2 members shall be appointed by the  
18 Majority Leader of the Senate;

19 (B) 2 members shall be appointed by the  
20 Minority Leader of the Senate;

21 (C) 2 members shall be appointed by the  
22 Speaker of the House of Representatives;

23 (D) 2 members shall be appointed by the  
24 Minority Leader of the House of Representa-  
25 tives;

1           (E) 2 members shall be appointed by the  
2 Chairman of the Committee on Banking, Hous-  
3 ing, and Urban Affairs of the Senate;

4           (F) 2 members shall be appointed by the  
5 Ranking Member of the Committee on Banking,  
6 Housing, and Urban Affairs of the Senate;

7           (G) 2 members shall be appointed by the  
8 Chairman of the Committee on Financial Serv-  
9 ices of the House of Representatives; and

10          (H) 2 members shall be appointed by the  
11 Ranking Member of the Committee on Finan-  
12 cial Services of the House of Representatives.

13 (2) QUALIFICATION OF MEMBERS.—

14          (A) IN GENERAL.—Members of the Com-  
15 mission shall be appointed under paragraph (1)  
16 from among persons who—

17           (i) have expertise in insurance, rein-  
18 surance, insurance regulation, policyholder  
19 concerns, emergency management, risk  
20 management, public finance, financial mar-  
21 kets, actuarial analysis, flood mapping and  
22 planning, structural engineering, building  
23 standards, land use planning, natural ca-  
24 tastrophes, meteorology, seismology, envi-

1                   ronmental issues, or other pertinent quali-  
2                   fications or experience; and

3                   (ii) are not officers or employees of  
4                   the United States Government or of any  
5                   State government.

6                   (B) DIVERSITY.—In making appointments  
7                   to the Commission—

8                   (i) every effort shall be made to en-  
9                   sure that the members are representative  
10                  of a broad cross section of perspectives  
11                  within the United States; and

12                  (ii) each member of Congress de-  
13                  scribed in paragraph (1) shall appoint not  
14                  more than 1 person from any single pri-  
15                  mary area of expertise described in sub-  
16                  paragraph (A)(1) of this paragraph.

17                  (3) PERIOD OF APPOINTMENT.—

18                  (A) IN GENERAL.—Each member of the  
19                  Commission shall be appointed for the duration  
20                  of the Commission.

21                  (B) VACANCIES.—A vacancy on the Com-  
22                  mission shall not affect its powers, but shall be  
23                  filled in the same manner as the original ap-  
24                  pointment.

25                  (4) QUORUM.—

1 (A) MAJORITY.—A majority of the mem-  
2 bers of the Commission shall constitute a  
3 quorum, but a lesser number, as determined by  
4 the Commission, may hold hearings.

5 (B) APPROVAL ACTIONS.—All rec-  
6 ommendations and reports of the Commission  
7 required by this section shall be approved only  
8 by a two-thirds vote of all of the members of  
9 the Commission.

10 (5) CHAIRPERSON.—The Commission shall, by  
11 majority vote of all of the members, select 1 member  
12 to serve as the Chairperson of the Commission (in  
13 this section referred to as the “Chairperson”).

14 (6) MEETINGS.—The Commission shall meet at  
15 the call of its Chairperson or a majority of the mem-  
16 bers.

17 (d) DUTIES.— The Commission shall examine and  
18 report to the Congress on the natural catastrophe insur-  
19 ance marketplace, including the extent to which insurance  
20 costs and availability are affected by the factors described  
21 in subsection (a), which factors the Federal Government  
22 can and should address to increase catastrophe insurance  
23 availability and competitiveness, and which actions the  
24 Federal Government can undertake to achieve this goal  
25 without requiring a long-term cross-subsidy from the tax-

1 payers. In developing its report, the Commission shall con-  
2 sider—

3 (1) the current condition of, as well as the out-  
4 look for, the availability and affordability of insur-  
5 ance and reinsurance for natural catastrophes in all  
6 regions of the United States;

7 (2) the current ability of States, communities,  
8 and individuals to mitigate their natural catastrophe  
9 risks, including the affordability and feasibility of  
10 such activities;

11 (3) the impact of Federal and State laws, regu-  
12 lations, and policies (including rate regulation, mar-  
13 ket access requirements, reinsurance regulations, ac-  
14 counting and tax policies, State residual markets,  
15 and State catastrophe funds) on—

16 (A) the affordability and availability of ca-  
17 tastrophe insurance;

18 (B) the ability of the private insurance  
19 market to cover losses inflicted by natural ca-  
20 tastrophes;

21 (C) the commercial and residential develop-  
22 ment of high-risk areas; and

23 (D) the costs of natural catastrophes to  
24 Federal and State taxpayers;

25 (4) the benefits and costs of—

1 (A) a national, regional, or other pooling  
2 mechanism designed to provide adequate insur-  
3 ance coverage and increased underwriting ca-  
4 pacity to insurers and reinsurers, including pri-  
5 vate-public partnerships to increase insurance  
6 capacity in constrained markets, including pro-  
7 posed Federal natural catastrophe insurance  
8 programs (specifically addressing the costs to  
9 taxpayers, tax equity considerations, and the  
10 record of other government insurance programs,  
11 particularly with regard to charging actuarially  
12 sound prices);

13 (B) improving Federal and State tax policy  
14 to allow insurers or individuals to set aside ca-  
15 tastrophe reserves;

16 (C) directing existing Federal agencies to  
17 begin selling catastrophe insurance to individ-  
18 uals;

19 (D) creating a consortium of Federal and  
20 State officials to facilitate state catastrophe  
21 bonds and reinsurance purchasing as well as  
22 providing temporary Federal disaster loans to  
23 the States for insurance purposes;

24 (E) expanding the Liability Risk Retention  
25 Act of 1986 to allow businesses to pool together

1 to buy insurance and set up their own insur-  
2 ance funds;

3 (F) providing temporary Federal assist-  
4 ance to low-income individual homeowners  
5 whose catastrophe insurance rates have in-  
6 creased beyond a certain level after a major dis-  
7 aster, with the possibility that the assistance  
8 would be repaid upon sale of the underlying  
9 home;

10 (G) providing for limited Federal develop-  
11 ment and oversight of the sale of catastrophe  
12 insurance in high-risk areas during periods of  
13 relative unavailability; and

14 (H) facilitating further growth of the ca-  
15 tastrophe bond marketplace and other competi-  
16 tive alternatives to the traditional insurance  
17 and reinsurance marketplace;

18 (5) the present and long-term financial condi-  
19 tion of State residual markets and catastrophe funds  
20 in high-risk regions, including the likelihood of insol-  
21 vency following a natural catastrophe, the concentra-  
22 tion of risks within such funds, the reliance on post-  
23 event assessments and State funding, the adequacy  
24 of rates, and the degree to which such entities have

1       been actuarially solvent in comparison to comparably  
2       sized private insurers;

3               (6) the need for strengthened land use regula-  
4       tions and building codes in States at high risk for  
5       natural catastrophes, and methods to strengthen the  
6       risk assessment and enforcement of structural miti-  
7       gation and vulnerability reduction measures, such as  
8       zoning and building code compliance;

9               (7) the ability of the private insurance market  
10       in the United States—

11               (A) to cover insured losses caused by nat-  
12       ural catastrophes, including an estimate of the  
13       maximum amount of insured losses that could  
14       be sustained during a single year and the prob-  
15       ability of natural catastrophes occurring in a  
16       single year that would inflict more insured  
17       losses than the United States insurance and re-  
18       insurance markets could sustain; and

19               (B) to recover after covering substantial  
20       insured losses caused by natural catastrophes;

21               (8) the impact that demographic trends could  
22       have on the amount of insured losses inflicted by fu-  
23       ture natural catastrophes;

1           (9) the appropriate role, if any, for the Federal  
2           Government in stabilizing the property and casualty  
3           insurance and reinsurance markets; and

4           (10) the role of the Federal, State, and local  
5           governments in providing incentives for feasible risk  
6           mitigation efforts.

7           (e) FINAL REPORT.—Before the beginning of the  
8           2008 hurricane season, which for purposes of this sub-  
9           section shall be considered to be June 1, 2008, the Com-  
10          mission shall submit to the Committee on Financial Serv-  
11          ices of the House of Representatives and the Committee  
12          on Banking, Housing, and Urban Affairs of the Senate  
13          a final report containing—

14           (1) a detailed statement of the findings and as-  
15           sessments conducted by the Commission pursuant to  
16           subsection (d); and

17           (2) specific and detailed recommendations for  
18           legislative, regulatory, administrative, or other ac-  
19           tions at the Federal, State, or local levels that the  
20           Commission considers appropriate, in accordance  
21           with the requirements of subsection (d).

22          (f) POWERS.—

23           (1) MEETINGS; HEARINGS.—The Commission  
24           may hold such hearings, sit and act at such times  
25           and places, take such testimony, and receive such

1 evidence as the Commission considers necessary to  
2 carry out the purposes of this section. Members may  
3 attend meetings of the Commission and vote in per-  
4 son, via telephone conference, or via video con-  
5 ference.

6 (2) AUTHORITY OF MEMBERS OR AGENTS OF  
7 THE COMMISSION.—Any member or agent of the  
8 Commission may, if authorized by the Commission,  
9 take any action which the Commission is authorized  
10 to take by this section.

11 (3) OBTAINING OFFICIAL DATA.—

12 (A) AUTHORITY.—Notwithstanding any  
13 provision of section 552a of title 5, United  
14 States Code, the Commission may secure di-  
15 rectly from any department or agency of the  
16 United States any information necessary to en-  
17 able the Commission to carry out this section.

18 (B) PROCEDURE.—Upon request of the  
19 Chairperson, the head of such department or  
20 agency shall furnish to the Commission the in-  
21 formation requested.

22 (4) POSTAL SERVICES.—The Commission may  
23 use the United States mails in the same manner and  
24 under the same conditions as other departments and  
25 agencies of the Federal Government.

1           (5) ADMINISTRATIVE SUPPORT SERVICES.—

2           Upon the request of the Commission, the Adminis-  
3           trator of General Services shall provide to the Com-  
4           mission, on a reimbursable basis, any administrative  
5           support services necessary for the Commission to  
6           carry out its responsibilities under this section.

7           (6) ACCEPTANCE OF GIFTS.—The Commission  
8           may accept, hold, administer, and utilize gifts, dona-  
9           tions, and bequests of property, both real and per-  
10          sonal, for the purposes of aiding or facilitating the  
11          work of the Commission. The Commission shall issue  
12          internal guidelines governing the receipt of donations  
13          of services or property.

14          (7) VOLUNTEER SERVICES.—Notwithstanding  
15          the provisions of section 1342 of title 31, United  
16          States Code, the Commission may accept and utilize  
17          the services of volunteers serving without compensa-  
18          tion. The Commission may reimburse such volun-  
19          teers for local travel and office supplies, and for  
20          other travel expenses, including per diem in lieu of  
21          subsistence, as authorized by section 5703 of title 5,  
22          United States Code.

23          (8) FEDERAL PROPERTY AND ADMINISTRATIVE  
24          SERVICES ACT OF 1949.—Subject to the Federal  
25          Property and Administrative Services Act of 1949,

1 the Commission may enter into contracts with Fed-  
2 eral and State agencies, private firms, institutions,  
3 and individuals for the conduct of activities nec-  
4 essary to the discharge of its duties and responsibil-  
5 ities.

6 (9) LIMITATION ON CONTRACTS.—A contract or  
7 other legal agreement entered into by the Commis-  
8 sion may not extend beyond the date of the termi-  
9 nation of the Commission.

10 (g) PERSONNEL MATTERS.—

11 (1) TRAVEL EXPENSES.—The members of the  
12 Commission shall be allowed travel expenses, includ-  
13 ing per diem in lieu of subsistence, at rates author-  
14 ized for employees of agencies under subchapter I of  
15 chapter 57 of title 5, United States Code, while  
16 away from their homes or regular places of business  
17 in the performance of services for the Commission.

18 (2) SUBCOMMITTEES.—The Commission may  
19 establish subcommittees and appoint members of the  
20 Commission to such subcommittees as the Commis-  
21 sion considers appropriate.

22 (3) STAFF.—Subject to such policies as the  
23 Commission may prescribe, the Chairperson may ap-  
24 point and fix the pay of such additional personnel as  
25 the Chairperson considers appropriate to carry out

1 the duties of the Commission. The Commission shall  
2 confirm the appointment of the executive director by  
3 majority vote of all of the members of the Commis-  
4 sion.

5 (4) APPLICABILITY OF CERTAIN CIVIL SERVICE  
6 LAWS.—Staff of the Commission may be—

7 (A) appointed without regard to the provi-  
8 sions of title 5, United States Code, governing  
9 appointments in the competitive service; and

10 (B) paid without regard to the provisions  
11 of chapter 51 and subchapter III of chapter 53  
12 of that title relating to classification and Gen-  
13 eral Schedule pay rates, except that an indi-  
14 vidual so appointed may not receive pay in ex-  
15 cess of the annual rate of basic pay prescribed  
16 for GS-15 of the General Schedule under sec-  
17 tion 5332 of that title.

18 (5) EXPERTS AND CONSULTANTS.—In carrying  
19 out its objectives, the Commission may procure tem-  
20 porary and intermittent services of consultants and  
21 experts under section 3109(b) of title 5, United  
22 States Code, at rates for individuals which do not  
23 exceed the daily equivalent of the annual rate of  
24 basic pay prescribed for GS-15 of the General  
25 Schedule under section 5332 of that title.

1           (6) DETAIL OF GOVERNMENT EMPLOYEES.—

2           Upon request of the Chairperson, any Federal Gov-  
3           ernment employee may be detailed to the Commis-  
4           sion to assist in carrying out the duties of the Com-  
5           mission—

6                       (A) on a reimbursable basis; and

7                       (B) such detail shall be without interrup-  
8           tion or loss of civil service status or privilege.

9           (h) TERMINATION.—The Commission shall terminate  
10          90 days after the date on which the Commission submits  
11          its report under subsection (e).

12          (i) AUTHORIZATION OF APPROPRIATIONS.—There  
13          are authorized to be appropriated to the Commission, such  
14          sums as may be necessary to carry out this section, to  
15          remain available until expended.